United Nations S/AC.50/2007/74

Security Council

Distr.: General
6 June 2007
English
Original: French

Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 22 May 2007 from the Permanent Mission of Belgium to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Belgium to the United Nations presents its compliments to the members of the Security Council Committee established pursuant to resolution 1737 (2006) and has the honour to refer to the note of 20 April 2007.

In response to that note, the Mission encloses herewith additional information on the measures taken by Belgium to implement the aforementioned resolution (see annex).

(*Signed*) Johan **Verbeke**
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Annex to the note verbale dated 22 May 2007 from the Permanent Mission of Belgium to the United Nations addressed to the Chairman of the Committee

1. In accordance with the conclusions of the General Affairs and External Relations Council of the European Union of 22 January and 12 February 2007, Belgium and other States members of the European Union jointly implemented restrictive measures laid down in Security Council resolutions 1737 (2006) and 1747 (2007) by adopting the following European instruments:[1]

- In accordance with resolution 1737 (2006), Council Common Position 2007/140/CFSP of 27 February 2007[2] specifies restrictive measures against the Islamic Republic of Iran. These measures include restrictions on exports to and imports from the Islamic Republic of Iran of goods and technology which could contribute to enrichment-related, reprocessing or heavy water-related activities or contribute to the development of nuclear weapon delivery systems, prohibition of the provision of related services, prohibition of any investment related to these goods and technologies, prohibition of the procurement from the Islamic Republic of these goods and technologies as well as freezing of funds and economic resources of persons who and entities and organizations which engage in, are directly associated with or provide support for these activities or this development;
- Council Regulation (EC) No. 423/2007 of 19 April 2007[3] implements the restrictions laid down in Council Common Position 2007/140/CFSP within the scope of the Treaty establishing the European Community. This regulation is binding in its entirety and directly applicable in all States members of the European Union;
- In accordance with resolution 1747 (2007), Council Common Position 2007/140/CFSP was amended by Common Position 2007/246/CFSP of 23 April 2007.[4] Regulation 423/2007 was amended by Council Regulation (EC) No. 441/2007[5] of 20 April 2007 and by Council Decision 2007/242/EC of 23 April 2007,[6] which adds other names to the list of persons subject to a freezing of funds and resources;
- Common Position 2007/246/CFSP broadens the scope of the restrictive measures. By amending Common Position 2007/140/CFSP, it prohibits the direct or indirect supply, sale or transfer to the Islamic Republic of Iran of arms and related materiel of any kind. States members of the European Union are called on to cease to enter into commitments to provide grants, financial assistance and concessional loans to the Iranian Government.

[1] All common measures are published in the Official Journal of the European Union, which may be consulted at the following addresses: http://eur-lex.europa.eu/JOIndex.do?=en (published issues) and http://europe.eu.int/eur-lex/lex/RECH_menu.do?ihmlang=en (search form).

[2] Official Journal of the European Union L 61, 28.2.2007, p. 49.

[3] Official Journal of the European Union L 103, 20.4.2007, p. 1.

[4] Official Journal of the European Union L 106, 24.4.2007, p. 67.

[5] Official Journal of the European Union L 104, 21.4.2007, p. 28.

[6] Official Journal of the European Union L 106, 24.4.2007, p. 51.

2. Concerning the restriction on the provision of goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities as laid down in paragraphs 3, 4, 5 and 6 of resolution 1737 (2006):

- Regulation 423/2007 prohibits the export and import on all goods and technologies included in the lists of the Nuclear Suppliers Group (S/2006/814) and the Missile Technology Control Regime (S/2006/815). These goods and technologies are listed in annex I to the Regulation;
- Regulation 423/2007 also prohibits the export of other goods and technologies specified by the sanctions committee or the Security Council of the United Nations. These goods and technologies are also listed in annex I to the Regulation;
- In addition, Regulation 423/2007 specifies that prior authorization is required by the competent authority of the member State (listed in annex III) for the export of all goods and technologies not covered in annex I which could contribute to enrichment-related, reprocessing or heavy water-related activities, to the development of nuclear weapon delivery systems or to the pursuit of activities related to other topics about which the International Atomic Energy Agency (IAEA) has expressed concerns or identified as outstanding. These goods and technologies are listed in annex II to the Regulation;
- The Regulation specifies that it is also prohibited to provide technical assistance, brokering services, investments, financing or financial assistance related to the goods and technologies referred to in annex I. With respect to those listed in annex II, prior authorization by the competent authority of the member State is required.

3. In accordance with paragraphs 5 and 6 of resolution 1747 (2007) Belgium has legislation requiring export licences for any sale, supply, transfer or export of arms and related materiel to third countries. In addition to Common Position 2007/140/CFSP (as amended by Common Position 2007/246/CFSP), this legislation provides the basis for implementation of the arms embargo against the Islamic Republic of Iran and the prohibition of the provision of related services, as follows:

- The Act of 5 August 1991[7] on the import, export and transit of and combating of trafficking in weapons, ammunition and materiel specifically destined for military use or the maintenance of order, and of related technology, as amended by the Act of 26 March 2003, prohibits any person residing in Belgium from taking part in a transaction involving weapons, etc., unless that person has a licence issued for that purpose by the Ministry of Justice. In addition, the Act specifies that licence holders may not effect any transaction that would violate an embargo decreed by an international organization of which Belgium is a member (articles 10 and 11). Lastly, the same Act states that any application for an export or transit licence should be denied if it is incompatible with the international obligations of Belgium and with the commitments that it has made to apply the arms embargoes decreed by the United Nations, the Organization for Security and Cooperation in Europe and the European Union (article 4, paragraphs 1 and 2).

[7] A consolidated version of the Belgian laws and regulations may be consulted at the following address: http://www.juridat.be/cgi_loi/legislation.pl.

At the European level, a new regulation for the implementation of Common Position 2007/140/CFSP (as amended by Common Position 2007/246/CFSP) is pending adoption.

4. Paragraph 7 of resolution 1747 (2007), which calls upon States to cease to enter into commitments to provide grants, financial assistance and concessional loans to the Iranian Government, is reflected in Common Position 2007/246/CFSP. A new regulation for implementation is pending adoption.

As the Islamic Republic of Iran is not included in the list of Belgian cooperation partner countries, the opportunities for any grants are rather limited. In the preliminary policy review, the obligations arising from resolution 1747 (2007) preclude the provision of bilateral financial support for exports.

5. With respect to restrictions on entry into or transit through territories referred to in paragraph 10 of resolution 1737 (2006):

- Common Position 2007/140/CFSP establishes, for the purposes of visa issue prohibition, the list of persons designated in the annex to resolution 1737 (2006). These persons are listed in annex I to the Common Position. In accordance with the expanded list under paragraph 2 of resolution 1747 (2007), Common Position 2007/140/CFSP is amended by Common Position 2007/246/CFSP (which replaces annex I).

- In addition, by using the same criteria as those used by the Security Council (or by the Committee) to identify persons concerned, States members of the European Union must take the necessary steps to prevent the entry into or transit through their territory by other persons. These persons are listed in annex II to the Common Position.

The two lists are transmitted to Belgian diplomatic and consular missions abroad with instructions not to issue visas to the persons covered by the sanctions. This refusal to issue visas is based on article 5 (e) of the Convention implementing the Schengen Agreement and reflects Council Common Position 2006/140/CFSP (as amended by Common Position 2006/246/CFSP).

Any person on the list who appears at the border would be refused entry in accordance with article 3 of the Act of 15 December 1980 on the entry, stay, permanent residence and removal of aliens.

6. With respect to the freezing of funds and economic resources in accordance with paragraph 12 of resolution 1737 (2006):

- For the purpose of the freezing of funds and economic resources, Common Position 2007/140/CFSP includes the list of persons designated in the annex to resolution 1737 (2006). These persons are listed in annex I to the Common Position. In accordance with the expanded list under paragraph 4 of resolution 1747 (2007), Common Position 2007/140/CFSP was amended by Common Position 2007/246/CFSP (which replaces annex I);

- In addition, Common Position 2007/140/CFSP specifies that the assets of other persons (not mentioned in annex I) who meet the criteria applied by the Security Council (or by the Committee) for identifying the persons concerned must also be frozen. These persons are listed in annex II to the Common Position. This Common Position was amended by Common Position 2007/246/CFSP (which replaces annex II);

- Council Regulation (EC) No. 423/2007 of 19 April 2007 implements this restriction in the European Community. In accordance with resolution 1747 (2007), this Regulation was amended by Commission Regulation (EC) No. 441/2007 of 20 April 2007 (which replaces annex IV of Regulation No. 423/2007);
- Having found that some persons meet the same criteria used by the Security Council (or sanctions committee), the General Affairs and External Relations Council added other names of persons subject to a freezing of funds and resources by Council Decision 2007/242/EC of 23 April 2007 (and thus replaced annex V to the Position and to Regulation 423/2007). The Council published this decision for the attention of the persons concerned by notice.[8]

7. The vigilance measures referred to in paragraph 17 of resolution 1737 (2006) are reflected in Common Position 2007/246/CFSP.

In Belgium, applications for student internships in sensitive nuclear research facilities are submitted for approval to the nuclear regulatory agency and other competent authorities.

8. Council Regulation (EC) No. 423/2007 requires member States to set up a sanctions regime to be applied in case of infringement of their provisions. The penalties imposed by Belgium are determined by the following legislation:

- Nuclear and missile-related embargo: implementation of article 10 of the Act of 11 September 1962 concerning the import, export and transit of goods and related technologies. In accordance with this provision, violations of the Act are penalized under articles 231, 249-253 and 263-284 of the General Act on Customs and Excise, mainly including:
  - Financial penalties equal to the value of the goods subject to the measures. These goods are also seized. In the event of improper use of authorization with respect to a third party, the declarant, transferor and transferee are jointly liable to the penalty;
  - In the event of insolvency, a set term of imprisonment is applied in accordance with article 40 of the Penal Code;
- Freezing of funds and economic resources: article 6 of the Act of 13 May 2003 concerning the implementation of the restrictive measures adopted by the Council of the European Union against States and certain persons and entities specifies that infringements of the measures contained in the European Union regulations or the decisions adopted in pursuance of such regulations are punished by a prison sentence of from eight days to five years and a fine of from 25 to 25,000 euros;
- Arms embargo: article 12 of the above-mentioned Act of 5 August 1991 states that infringements of articles 10 and 11 will be punished by a prison sentence of from one month to five years and a fine of from 10,000 to 1 million euros or by one of those penalties only.

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[8] Official Journal of the European Union C 90, 25.4.2007, p. 30.